

SPECIFIC WAIVER COVER SHEET
CALIFORNIA STATE BOARD OF EDUCATION
MAY 2003 AGENDA
Item No. WC-2

<p>TITLE: Request by eight school districts for a retroactive waiver of <i>Education Code</i> (EC) Section 60119 regarding Annual Public Hearing on the availability of textbooks or instructional materials. These districts have audit findings for fiscal year 2001-2002 that they 1) failed to hold the public hearing, or 2) failed to properly notice (10 days) the public hearing and/or 3) failed to post the notice in the required three public places.</p> <p>CDSIS: 01-04-2003 – Antelope Elementary School District 13-12-2003 – Blochman Union School District 172-3-2003 – Lennox School District 13-04-2003 – Loomis Union School District 02-04-2003 – Roseland School District 08-04-2003 – Soledad Unified School District 52-03-2003 – San Lorenzo Unified School District 56-03-2003 – San Lucas Union School District</p>	<div style="margin-bottom: 5px;"><hr style="width: 50px; display: inline-block; vertical-align: middle;"/> ACTION</div> <div style="margin-bottom: 5px;"><hr style="width: 50px; display: inline-block; vertical-align: middle;"/> INFORMATION</div> <div style="margin-bottom: 5px;"><hr style="width: 50px; display: inline-block; vertical-align: middle;"/> PUBLIC HEARING</div> <div style="margin-bottom: 5px;"><hr style="width: 50px; display: inline-block; vertical-align: middle;"/> X CONSENT</div>
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RECOMMENDATION:

The Department recommends: ☒ Approval

Summary of Previous State Board of Education Discussion and Action:

The State Board of Education (SBE) has heard and approved a policy developed by the department of Instructional Materials Sufficiency Waivers of Retroactive audit findings. None of these districts have had a prior year finding and waiver of this type, so this goes to consent.

Summary of Key Issue(s):

During audits for fiscal year 2001-2002, it was discovered that the above local educational agencies did not hold the public hearing notice of sufficiency of instructional materials as required by *EC* Section 60119 or post the required ten days notice of the public hearing.

Since then, the local educational agencies have held a fully compliant hearing and determined that it has sufficient instructional materials for each pupil in each school in the district. California Department of Education (CDE) staff verified all other requirements of the Specific Waiver request and none of the local educational agencies have had a waiver of this education code before for the public hearing and ten day notice requirements in the 1997-98, 1998-99, 1999-00 or 2000-01 years. Without the waiver, the local educational agencies will have to return \$ to CDE.

Therefore, since the local educational agencies have met the requirements for fiscal year 2002-2003, and agree to comply with EC 60119 and ensure that the public hearing is held within the fiscal year and that the notice of public hearing is posted for ten days, CDE recommends approval of this waiver request.

Authority for the waiver: EC Section 41344.3

Effective dates of request: 7/1/01 to 6/30/02 Audit Year

Fiscal Analysis (as appropriate): This waiver if approved will relieve districts of **\$381,121** in total penalties.

Background Information:

Waiver request forms and supporting documents are available for inspection in the Waiver Office.

Failure to Hold the Public Hearing, and Complete a Local Board Resolution on the Sufficiency of Textbooks and Instructional Materials (within the 2001-2002 fiscal year)

CDSIS – 01-04-2003 – Antelope Elementary School District

- Audit finding for the 2001-2002 fiscal year that would require the return of \$42,735 in Schiff-Bustamante and Instructional Materials funds.
- The auditor found that the district posted the notice for the 60119 public hearing for seven days instead of the required ten days. On February 11, 2003, the district held a fully compliant hearing with a resolution. The district will monitor the dates to ensure that this does not happen again.
- CDE staff verified all other requirements of the Specific Waiver request.

CDSIS-13-12-2003 – Blochman Union School District

- Audit finding for the 2001-2002 fiscal year that would require the return of \$7,204 in Schiff-Bustamante and Instructional Materials funds.
- The auditor found that the district did the required EC 60119 public hearing for fiscal year 2001-2002 but did not complete the resolution for the Sufficiency of Instructional Materials. On December 12, 2002, the district held a fully compliant hearing with a resolution.

- CDE staff verified all other requirements of the Specific Waiver request.

CDSIS – 127-03-2003 – Lennox School District

- Audit finding for the 2001-2002 fiscal year that would require the return of \$519,952 in Schiff-Bustamante and Instructional Materials funds.
- The auditor found that the district did not complete a resolution after the public hearing on the sufficiency of textbooks and instructional materials. The district thought it was understood that they had sufficient materials and did not need to do a resolution. However, since the audit finding, the district has held a fully compliant public hearing in accordance with EC 60119, on January 28, 2003.
- CDE staff verified all other requirements of the Specific Waiver request.

CDSIS – 02-04-2003 – Roseland School District

- Audit finding for the 2001-2002 fiscal year that would require the return of \$85,865 in Schiff-Bustamante and Instructional Materials funds.
- The district did not hold a public hearing for the sufficiency of instructional materials for fiscal year 2001-2002 as required by EC 60119. The district has since revised their policies in order not to omit the hearing again. Since then the district held a fully compliant hearing on November 26, 2002 for fiscal year 2002-2003.
- CDE staff verified all other requirements of the Specific Waiver request.

CDSIS – 08-04-2003 – Soledad Unified School District

- Audit finding for the 2001-2002 fiscal year that would require the return of \$232,149 in Schiff-Bustamante and Instructional Materials funds.
- The district did not hold a public hearing as required by EC Section 60119 before the end of the 2001-2002 fiscal year, instead they held it a month after the end of the fiscal year in August of 2002. Therefore, the auditor found them out of compliance.

Failure to Give Ten days Notice of the Public Hearing on the Sufficiency of Textbooks and Instructional Materials (within the 2001-2002 fiscal year)

CDSIS – 13-04-2003 – Loomis Union School District

- Audit finding for the 2001-2002 fiscal year that would require the return of \$143,312 in Schiff-Bustamante and Instructional Materials funds.
- The district could not prove that they had posted their public notice for the required 60119 public hearing. The district has now changed their procedures to keep a copy of the newspaper where the notice gets posted every year in order to prevent this finding from occurring again.
- The district held a fully compliant hearing on September 5, 2002.
- CDE staff verified all other requirements of the Specific Waiver request.

CDSIS – 56-03-2003 – San Lucas Union School District

- Audit finding for the 2001-2002 fiscal year that would require the return of \$5,319 in Schiff-Bustamante and Instructional Materials funds.
- The district was cited in their audit for not posting the notice of public hearing for ten days prior to the meeting as required by EC 60119. The district had suffered a change of administration and therefore omitted the ten days posting. They have since held a fully compliant public hearing on March 12, 2003.
- CDE staff verified all other requirements of the Specific Waiver request.

Failure to Post the Notice of the Public Hearing in Three Public Places on the Sufficiency of Textbooks and Instructional Materials (within the 2001-2002 fiscal year)

CDSIS – 52-3-2003 – San Lorenzo Unified School District

- Audit finding for the 2001-2002 fiscal year that would require the return of \$248,842 in Schiff-Bustamante and Instructional Materials funds.
- The auditor found that the district did not post notices announcing the public hearing for the sufficiency of textbooks and instructional materials as required by EC 60119.
- The district has changed their procedures to assure that the notices are properly posted in the future. The district has since held a correctly noticed public hearing on March 4, 2003 for fiscal year 2002-2003.
- CDE staff verified all other requirements of the Specific Waiver request.